

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATIVE HEARING OFFICER**

In Re:
PEACE INDUSTRY GROUP (USA), INC.
BLUE EAGLE MOTOR INC., ET. AL.

Respondents,

Docket No.
CAA-HQ-2014-8119

RESPONDENT'S INITIAL PREHEARING EXCHANGE

- A. The Respondent may call the following people as witnesses at a hearing. These witnesses will be primarily fact witnesses, unless identified as experts;
1. Qiuping (Byron) Wang, President and CEO of the Respondent. Respondent adopts Complainant's description of this individual as set forth in # 19 of Complainant's initial exchange.
 2. Meiredith Huang, General Manager. Respondent adopts Complainant's description of this individual as set forth in # 21 of Complainant's initial exchange.
 3. Yihui (Lily) Ji Sales Manager. She is generally familiar with the marketing and sales made by the Respondent and the difficulties the Respondent company has experienced in the market place since the tragic collapse of the economy in 2007.
 4. James Xu Consultant for Respondent in making application for EPA COCs. Respondent adopts Complainant's description of this individual as set forth in # 22 of Complainant's initial exchange, will be designated as an expert.
 5. Abraham Reyes, Chief Mechanic for the Respondent. He is generally familiar with the maintenance, care and condition of imported vehicles. He is additionally able to speak to the purported easy ability of third parties to adjust needle valves on various subject vehicles, will be designated as an expert.
 6. Roger Li, CPA with accounting firm of Galeano, Li, Lei & Villegas, CPA, LLC, which handles accounting for the Respondent and will be designated as experts.
 7. Amy Tang, former in house book keeper, accountant. She is familiar with the books and records and book keeping policy and procedures for the Respondent.

B. Copies of all documents which have been previously produced by the Respondent as part of the record exchange to demonstrate its limited ability to pay pursuant to 42 U.S.C § 7524 9 (c) (2), the Respondent hereby adopts pages 2 - 4 of Complainant's letter dated March 5, 2015 (Exhibit 'A') which is attached hereto and by reference included herein, and provides a comprehensive list of all the business and financial records which have been produced by the Respondent over the past, (See attached pages 2 - 4). The Respondent requests that these documents already in the possession of the Complainant be admitted for evidentiary purposes and any additional documents which are later discovered which address similar questions posed by the Complainant be admitted in hearings before the Administrative Hearing Judge.

Respondent's position regarding the numerous alleged violations in Counts 1 - 5, are not based on reasonable sampling. The respondent shows a significant number of vehicles alleged to have violated the Clean Air Act were in fact remediated by U.S. Customs at the border. Respondent shows that it believes balance of the alleged vehicles were not tested for emissions, which if properly conducted would have most probably have provided evidence of not actually violating the Clean Air Act standards set for such vehicles. This failure of the part of the Complainant should be evidence to allow for diminishment and/or obviation of the onerous penalties the EPA requests the court to impose. Respondent shows by the Complainant's own admission in its prehearing exchange, "are violations where excess emissions are likely to occur", or "there is no information about the emission from these vehicles or engines", which is pure guessing on the part of the Complainant.

The Respondent's position regarding accusations of being non-cooperative is that they are completely inaccurate. Respondent has made every effort including traveling to China to meet with and to admonish the factory Respondents to fully and completely comply with the COC certification standards. The Respondent shows the Complainant brought a civil action (*and possibly a criminal action*) against MotorScience who was a testing and certifying company for many of the family of engines in question. The action was filed in Federal District Court and the Complainant obtained a judgment against MotorScience in the amount of Three Million Dollars. The Respondent shows it fired MotorScience prior to any court action, once it realized MotorScience was not performing tests as required by the EPA under the Clean Air Act standards. The Respondent shows this in fact evidences its cooperation.

The Respondent shows that as evidence by Exhibit 'A', literally hundreds (*if not thousands*) of pages of documents have been provided to the Complainant as part of a voluntary evidence submission to facilitate the Complainant's research into "ability to pay". The Complainant's claim that the Respondent did not provide this information is untrue and incorrect. The Respondent would assert that Complainant did not like the evidence supplied as it in fact did prove that Respondent is without the resources to pay the outrageous penalty the EPA seeks to have the court impose.

The Respondent responds to the assertion by the Complainant that the Respondent “carried a very large account payable with no terms for repayment. This is in fact not the case and the Respondent’s financial records and the numerous discussion during settlement and mediation have explained the payment terms. The Respondent admits the terms were not in writing as the Complainant wished, but were verbal between the parties and generally explained and understood by the Complainant, even if it wishes to not acknowledge them.

Finally, the Respondent shows it has no control over the Respondent factories in China. This Respondent has gone to great lengths to admonish the factories that they must comply with the requirements of the U.S. Clean Air Act. This Respondent shows it can not “take a baseball bat and hit the factories over the head” to make them comply. The Respondent shows that over the past few years the Chinese factories have realized the necessity for strict compliance and to the best of this Respondent’s knowledge and belief they are now doing so. As an aside the Respondent draws the court’s attention to the various news reporting showing the Chinese government in general is realizing its failure to observe good policy about Clean Air has allowed for the extreme air pollution which exist in that country. This governmental failure and generally poor attitude about clean air quality may account for the Chinese factories lack of regard for compliance in the past.

Location: The Respondent shows it is a Georgia Corporation doing business in the Atlanta area since 2006. The Respondent shows the proper venue for any hearings should be set in the Atlanta area. The respondent shows the EPA has a significant presence in Atlanta and thus any hearing should be held in Atlanta, which will not negatively impact the Complainant. Conversely, hearings held in Washington, DC is a *forum non-conveniens* for this Respondent who has no offices or business affixation in Washington, unlike the Complainant which has offices in both cities.

Additionally, The Respondent shows it intends to have live demonstrations conducted of the dismantling of a subject vehicle, the removal of the carburetor and the removal of the protective cap and needle valve. The best location for such a live demonstration is at the Respondent’s facility in Atlanta.

Confidential Business Information :

Respondent shows it has no objection to the use of this corporate respondent's business and financial information being used in connection with any hearings before this Administrative Hearing, but request that it be sealed after the conclusion of the hearing and not be made generally available to the public at anytime.

Respectfully submitted,



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Respondent, Peace Industry Group(USA), Inc.
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EXHIBIT "A"

1. Financial Statements:

- a. 2010 Federal 1120 & GA600 Corporate Tax Returns¹
- b. 2011 Federal 1120 & GA600 Corporate Tax Returns²
- c. 2012 Federal 1120 & GA600 Corporate Tax Returns³
- d. 2011 Balance Sheet & Profit & Loss Statement;⁴
- e. 2012 Balance Sheet & Profit & Loss Statement;⁵
- f. 2013 Balance Sheet & Profit & Loss Statement;⁶

2. Other Financial Data:

- a. December 2012 Wells Fargo bank statement for Account XXX8436, odd numbered pages only;⁷
- b. December 2012 East West Bank statement for Account XXX1288;⁸
- c. December 2012 East West Bank statement for Account XXX0538;⁹
- d. December 2012 East West Bank statement for Account XXX9841;¹⁰
- e. December 2012 Wells Fargo Bank statement for Account XXX8436 (even numbered pages only);¹¹
- f. January – December 2013 East West Bank statement for account XXX9841;¹²
- g. January 2013 East West Bank statement for account XXX0538;¹³
- h. January – December 2013 East West Bank statement for account XXX1288;¹⁴
- i. January – December 2013 Wells Fargo Bank statements for account XXX8436;¹⁵
- j. Cash flow statements for 2011, 2012 & 2013;¹⁶
- k. Corporate debtor form;¹⁷
- l. Inventory stock status as of June 2014;¹⁸
- m. 2012 Form 1120 Summary (abstract);¹⁹
- n. 2013 GA estimated coupons;²⁰
- o. Form 8821 – Tax Information Authorization;²¹

¹ 2010.pdf

² 2011_GA600.pdf

³ 2012_1120C.pdf, 2012_GA600.pdf, PeaceUSA-Responses #5c.pdf, PeaceUSA-Responses #5c Cont.pdf

⁴ Compiled_Financial_Statements_2011.pdf, PeaceUSA-Responses#s 2C-3C-4C--6C.pdf

⁵ Compiled_Financial_Statements_2012.pdf, PeaceUSA-Responses#s 2C-3C-4C--6C.pdf

⁶ Compiled_Financial_Statements_2013.pdf

⁷ bank_statement_1.pdf

⁸ bank_statement_1.pdf

⁹ bank_statement_1.pdf

¹⁰ bank_statement_1.pdf

¹¹ bank_statement_2.pdf

¹² PeaceUSA-Responses #4.pdf

¹³ PeaceUSA-Responses #4.pdf, PeaceUSA-Responses #4 cont.pdf

¹⁴ PeaceUSA-Responses #4 cont.pdf, PeaceUSA-Responses #5-8.pdf

¹⁵ WF_2013.zip, PeaceUSA-Responses #5-8.pdf

¹⁶ PeaceUSA-Responses #1-3.pdf

¹⁷ PeaceUSA-Responses #1-3.pdf, PeaceUSA-Doc-2014_6_11_14_12_24.pdf

¹⁸ PeaceUSA-Responses#s 2C-3C-4C--6C.pdf

¹⁹ PeaceUSA-Responses#s 2C-3C-4C--6C.pdf

²⁰ PeaceUSA-Responses#s 2C-3C-4C--6C.pdf

²¹ PeaceUSA-Responses#s 2C-3C-4C--6C.pdf

3. Verifications:
 - a. Verification statement about Red Stone, Inc., Verification – Indemnification, Verification – Insurance/Bonding Co., Verification – United Power Sports²²
 - b. Report of Foreign Bank and Financial Accounts (FBAR) Verification;²³
 - c. Verification – No audited financial statements for 2009 & 2010;²⁴
4. Other information:
 - a. Loan agreements between Peace Industry and Mountain Realty Holdings, LLC, as identified on Peace Industry’s 2013 financial statement balance sheet;²⁵
 - b. Shareholders of all companies and articles of incorporation;²⁶
 - c. Explanation of how payment of penalty would affect the company’s ability to continue in business;²⁷
 - d. EPA Letter of missing documentation with hand-written notes of G. Michael Smith,²⁸ & January 30, 2015 e-mail statement regarding SBA Loans, Mountain Realty Holdings, rent paid Peace Industry and loan repayment;²⁹
 - e. October 23, 2012 letter from USDOJ to Peace Industry and Peace Industry’s response;³⁰
 - f. Peace Industry Articles of Incorporation, GA State Certificate, Bylaws;³¹
 - g. Blue Eagle Annual Registration, Articles of Incorporation & Certificate of Incorporation;³²
 - h. Real estate transactions – 2649 Mountain (299 pages).³³

We also request that you provide additional documents and information to ensure that we are able to accurately assess the effect of the penalty on your client’s ability to continue in business:

1. Financial Statements:
 - a. Balance sheets (2010 & 2014), income statements (profit & loss – 2010 & 2014), and statement of cash flows as of December 31 for 2010 and 2014, including any notes to financial statements;
 - b. Signed and filed federal and state income tax returns for the years 2013-2014, including all schedules. If 2014 Corporate tax return (Form 1120) is not available yet, then see (a) above for year-end financial statements for 2014;
 - c. Detailed general ledgers from 2010 – 2014.
2. Other Financial Data:
 - a. W-2s and 1099s for years 2010-2014;

²² PeaceUSA-Responses #2B-#5B.pdf

²³ PeaceUSA-Responses #5-8.pdf

²⁴ PeaceUSA-Responses #1-3.pdf

²⁵ PeaceUSA-Response #1B.pdf

²⁶ PeaceUSA-Responses #5-8.pdf

²⁷ PeaceUSA-Responses #5-8.pdf

²⁸ PeaceUSA-Response EPA Ltr 4-17-14.pdf

²⁹ Response Cover Email-FW Verified Responses to EPA Discovery Requests-4-17-14 Notepad

³⁰ canonb05a75.enrd.doj.gov_Exchange_10_23_2012_13-34-20.pdf, PeaceResponse-EPA-12-3-12-3.pdf

³¹ 14 - Peace Industry Corporate Records.pdf

³² PeaceResponse-EPA-12-3-12-3.pdf

³³ Binder.pdf

- b. Aged accounts receivable listing (30, 60, and 90-days) as of December 31 for 2010-2014 with customer names;
 - c. Bank statements for Wells Fargo account ending in #8436 (January - December 2014), East West ending in #1288 (January – December 2014), East West account in #0538 (February 2013 – December 2014), and East West account ending in #9841 (January – December 2014);
 - d. List of inventory items as of December 31 for 2010 – 2014;
 - e. List of aging accounts payable (30, 60, 90-day) with vendor names as of December 31 for 2010 – 2014.
 - f. Detailed listing of “Loan to Related Party” from 2012 Form 1120 Corporate Tax Return Statement;
 - g. HUD Settlement Statement on the property: 2649 Mountain Industrial Blvd. Tucker, GA 30084;
 - h. Copies of other real estate leases;
 - i. Deposit images of checks from customers from January – February 2015 for East West and Wells Fargo bank accounts;
 - j. Corporate credit card statements (if any) for years 2012 – 2014;
 - k. Shipping documents (freight out to customers/not freight-in for imports) for 2013 & 2014;
 - l. Sales journals for 2013 & 2014;
 - m. Detail/itemization listing of what comprises automobile expenses and professional fees for years 2010 – 2014 if the general ledgers do not provide such details.
3. Other Company and Operating Data:
- a. Vendor agreements with Red Stone, Inc., Zhejiang Peace Industry, and any other major suppliers;
 - b. Price list (what you sell to customers) and costs (your purchase costs) of the recreational vehicles by model for 2012 – 2014;
 - c. Copies of other value indicators, including latest property tax assessments and any appraisals (of real estate, equipment, etc.) that have been performed during the last three years.
4. Answers to the following Questions:
- a. Does management anticipate any bad debts/allowance for doubtful account of accounts receivable? Do they intend to collect the balance? Are there any collectible issues?
 - b. Are there any personal expenses paid by the company that we should be aware of? If so, provide a list of transactions.
 - c. Why was there a decline of \$1.5 million in sales from 2012 (\$6.4 million) to 2013 (\$4.9 million) per financial statements compiled from the accounting firm?
5. Related Party – Mountain Realty Holdings, LLC:
- a. Financial statements (Balance Sheet and Income Statement) for years December 31, 2012 – 2014;
 - b. Detailed general ledgers from 2012 – 2014;
 - c. Bank statements with check images for 2012-2014;
 - d. Form 1098 – Mortgage Statement as of 12/31/2014;
 - e. Real estate appraisal or annual real estate assessment bill.

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Respondents,

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CERTIFICATE OF SERVICE

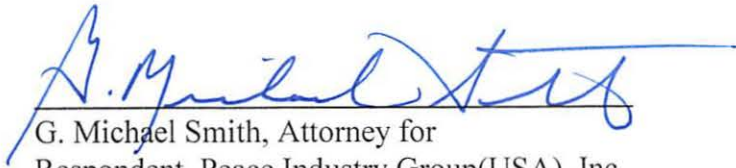
I hereby certify that I have this day served a copy of the within and foregoing Respondent's Initial Prehearing Exchange upon the following named individuals concerned of record to this matter by depositing a true and correct copy of same in the United States Mail, proper postage pre-paid, addressed to and by electronic submission using the online OALJE-Filing System.

Sybil Anderson, Headquarters Hearing Clerk
U.S. Environmental Protection Agency
Office of Administrative Law Judges
Ronald Reagan Building, Room M1200
1300 Pennsylvania Ave., N.W.
Washington DC 20460

M. Lisa Buschmann Administrative Law Judge
U.S. Environmental Protection Agency
Office of Administrative Law Judges
Ronald Reagan Building, Room M1200
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Washington DC 20460

Evan Belser, Esq., Attorney for Complainant
Air Enforcement Division
Office of Civil Enforcement
1200 Pennsylvania Ave., N.W.
William J. Clinton Federal Building
Room 1142C, Mailcode 2242A
Washington, DC 20460

Served this 25th day of March, 2015.



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